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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,412	12/01/2003	Richard C. Elton	Elton-1	1064
Eric J. Nuss 7980 Drumbeat Place Jessup, MD 20794	7590 06/20/2007		EXAMINER WIEHE, NATHANIEL EDWARD	
			ART UNIT 3745	PAPER NUMBER
			MAIL DATE 06/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/724,412	ELTON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nathan Wiehe	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 May 2007.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,5-22,31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,5-22,31 and 32 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Response to Arguments***

The applicant has not presented concise arguments with regard to the art rejections of the claims. It is therefore assumed that the applicant acquiesced to the Examiner's position.

The objection to the drawings has been overcome by the cancellation of claims 3 and 4.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,5,31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Jorgensen et al. (4,457,292), hereinafter "Jorgensen". Jorgensen discloses a cook fan (20) attaching to an over shelve (15) holding container (C) through a clamp (70). The fan includes a base (40) and a motor, consisting of springs, shafts and gears, attached to blades (60) through shaft (55). The clamp (70) allows for the base to slide into and out of engagement with the container. The limitation "to prevent boiling over" is being treated as an intended use limitation. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647

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(Bd. Pat. App. & Inter. 1987). The cook fan of Jorgensen meets the structural limitations of the claims and is capable of performing the function of preventing boil over.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (4,457,292), hereinafter "Jorgensen". Jorgensen discloses the cook fan (20) is composed of materials suitable for operation through the range of temperatures encountered in an oven (Jorgensen column 3, lines 1-5), but does not explicitly indicate a temperature of greater than 200°. However, it is readily apparent that a temperature of greater than 200° is encompassed within the range of operational temperature for an oven as would be known to one of ordinary skill in the art. Therefore, it would have been obvious to one of ordinary skill in the art that the cook fan of Jorgensen was composed of materials capable of withstanding temperatures greater than 200°.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (4,457,292), hereinafter "Jorgensen" in view of Jane et al. (5,547,343), hereinafter "Jane". Jorgensen discloses the invention substantially as claimed except for the use of a screw mechanism clamp. Jane discloses a fan (11) including a

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clamping mount arrangement (51) having a screw mechanism (55) for securely mounting the fan on a support surface. The screw clamp of Jane would provide increased clamping force and thus provide for a more secure mounting of the fan. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the clamp of Jorgensen by including a screw mechanism as taught by Jane for the purpose of more securely mounting the fan.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (4,457,292), hereinafter "Jorgensen" in view of Duddy (3,917,940). Jorgensen discloses the invention substantially as claimed except for the use of a magnetic base. Duddy discloses a small appliance (18) mounted to an adjustable arm (16) including a magnetic base member (24,26). The magnetic base allows for use on horizontal, vertical or inclined surfaces that do not provide a hooking or clamping location (Duddy column, 1 lines 34-41). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fan of Jorgensen by including a magnetic base as taught by Duddy to allow for use on vertical, horizontal or inclined surfaces absent of a clamping location.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (4,457,292), hereinafter "Jorgensen" in view of Thompson (5,370,500). Jorgensen discloses the invention substantially as claimed except for the use of a latch mechanism for vertical adjustment of the fan. However, it is well known in the art of fan supports to provide a height adjustment mechanism. One such common mechanism is the use of two telescoping support elements relatively adjustable through the use of a

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latch selectively inserted into a plurality of holes. Thompson discloses a fan (11) including a support (14) with a vertical adjustment mechanism comprising a latch (38) and holes (34) as discussed above. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fan of Jorgensen by including a support with a latch and hole vertical adjustment mechanism since such an arrangement is commonly used in the art, as evidenced by Thompson, to allow for vertical adjustment of the fan.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (4,457,292), hereinafter "Jorgensen" in view of Crawford (5,256,039). Jorgensen discloses the invention substantially as claimed except for the use of an electrical power system. Crawford discloses a fan (9) including an electrical power system. The power system of Crawford includes a battery (33) and a cord (31) both being capable of powering the fan (9). Also, the cord (31) may be utilized to recharge the battery (31). The power system of Crawford provides an obvious improvement over the mechanical system of Jorgensen in so much as the electrical system does not require the user to input the energy to operate the fan, thus facilitating use of the fan. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fan of Jorgensen by utilizing an electrical power system as taught by Crawford in order to facilitate the use of the fan.

Claims 3,8,9,11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (4,457,292) in view of Carter (5,725,356). Jorgensen discloses the invention substantially as claimed except for the use of a

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goose neck and a spring clamp. Carter discloses a fan (10) including a clamping base (36) that includes a spring for increased clamping force and a goose neck (64) connecting the fan (12) to the base (36). The goose neck allows the position of the fan to be adjusted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fan of Jorgensen by including a spring clamp and a goose neck support as taught by Carter for the purpose of securely mounting the fan by increasing the clamping force and to allow the fan to be positioned in a multitude of locations.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (4,457,292), hereinafter "Jorgensen" in view of Carter (5,725,356) as applied to claim 16 above, and further in view Duddy (3,917,940). The modified invention of Jorgensen discloses the invention substantially as claimed except for the use of a magnetic base. Duddy discloses a small appliance (18) mounted to an adjustable arm (16) including a magnetic base member (24,26). The magnetic base allows for use on horizontal, vertical or inclined surfaces that do not provide a hooking or clamping location (Duddy column, 1 lines 34-41). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the fan of Jorgensen by including a magnetic base as taught by Duddy to allow for use on vertical, horizontal or inclined surfaces absent of a clamping location.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (4,457,292), hereinafter "Jorgensen" in view of Carter (5,725,356) as applied to claim 16 above, and further in view of Nigoghosian (5,842,670). The modified

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invention of Jorgensen discloses the invention substantially as claimed except for the use of a heavy base. Nigoghosian discloses a support member used to hold a hair drying fan apparatus including a base, which provides sufficient weight to counter balance the weight of the apparatus. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the fan of Jorgensen by including a base of sufficient weight as taught by Nigoghosian for the purpose of preventing the fan from tipping over.

Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (4,457,292), hereinafter "Jorgensen" in view of Carter (5,725,356) as applied to claim 16 above, and further in view of Crawford (5,256,039). The modified invention of Jorgensen discloses the invention substantially as claimed except for the use of an electrical power system. Crawford discloses a fan (9) including an electrical power system. The power system of Crawford includes a battery (33) and a cord (31) both being capable of powering the fan (9). Also, the cord (31) may be utilized to recharge the battery (31). The power system of Crawford provides an obvious improvement over the mechanical system of Jorgensen in so much as the electrical system does not require the user to input the energy to operate the fan, thus facilitating use of the fan. It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the fan of Jorgensen by utilizing an electrical power system as taught by Crawford in order to facilitate the use of the fan.

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***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Wiehe whose telephone number is (571)272-8648. The examiner can normally be reached on Mon.-Thur. and alternate Fri., 7am-4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571)272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nathan Wiehe  
Examiner  
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